

**Notice of Allowability**

Application No.

10/758,547

Applicant(s)

CHARNY ET AL.

Examiner

DeWanda Samuel

Art Unit

2616

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 21 November 2007.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☒ SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☒ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cindy S. Kaplan on 02/07/2008.

The application has been amended as follows:

#### ***Claims***

Claim 7 on page 4 line 5 --storage – is inserted before the word "medium".

Claim 7 on page 4 line 6 --code-- is inserted after "computer-executable"

Claim 7 line 8 --code-- inserted before "comprising".

Claim 7 line 21--and-- inserted after "; "

Claim 7 line 24 --computer-readable medium that stores the codes– delete entire line.

Claim 8 line 1 --storage-- inserted before "medium".

Claim 9 line 8 --storage-- inserted before "medium".

Claim 10 line 12 --storage-- inserted before "medium".

Claim 11 line 20 --storage-- inserted before "medium".

Claim 12 line 1 --storage-- inserted before "medium".

Claim 13 line 10 --storage – is inserted before the word "medium".

Claim 13 line 11--code-- is inserted after "computer-executable"

Claim 13 line 11 --code-- inserted before "comprising".

The following is an examiner's statement of reasons for allowance:

Bennett et al. discloses having hierarchical generalized processor sharing ( HGPS) system whereby providing a general and flexible framework to support hierarchical link sharing and traffic management for different service classes. Levy further discloses having numerous algorithms making a packet selection from the highest priority non-empty queue. The prior art fails to anticipate or render obvious the following recited features: Claims 1,7,13 limitation ; creating a new non-priority node and one or more new priority nodes in said unified tree; wherein said selected non-priority nodes are children of said new non-priority node in said non-priority sub-tree, as viewed in said multi-level class hierarchy;  
wherein said selected priority nodes are children of said one or more new priority nodes in said one or more priority sub-trees, as viewed in said multi-level class hierarchy;

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Prior Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Widmer et al. ( US Patent 7,283,472) discloses having a priority-based efficient fair queuing for quality of service classification for packet processing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DeWanda Samuel whose telephone number is (571) 270-1213. The examiner can normally be reached on Monday- Thursday 8:30-5:30 EST.

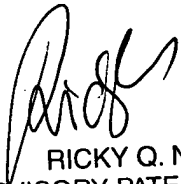
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DeWanda Samuel  
2/15/2008



RICKY Q. NGO  
SUPERVISORY PATENT EXAMINER